

# BARTON

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August 8, 2018

**BY ECF**

Honorable J. Paul Oetken  
United States District Judge  
United States Courthouse  
40 Foley Square  
Room 2101  
New York, New York 10007

**Re: *Cubicle Enterprises LLC, d/b/a*  
*TheCubicle, v. Rubik's Brand Limited*  
Case Number 1:18-cv-00963 (JPO)**

Your Honor:

As counsel to plaintiff/counterclaim defendant Cubicle Enterprises LLC, d/b/a TheCubicle, ("Cubicle") and counterclaim defendant Phillip Yu and with the consent of counsel to defendant/counterclaim plaintiff Rubik's Brand Limited, we hereby respectfully submit this joint letter motion of the parties, pursuant to Section 1A of Your Honor's Individual Practices in Civil Cases, to amend this Court's Scheduling Order, dated April 27, 2018, so as now to provide that "[a]ll fact discovery relating to the RUBIK'S CUBE word trademark shall be completed by October 31, 2018."

The parties have made no prior request for such an alteration of the Court's schedule. Moreover, they have sought this amendment and two month extension of time only after carefully considering the scope and particulars of the necessary discovery as to the word mark and concluding that completion of all such discovery by the current deadline of August 31, 2018 is impracticable in view of limited witness and counsel availability for the remainder of this month.

In this vein, the parties wish to advise Your Honor that they have been and are actively engaged in substantial discovery on that mark. To be specific, Rubik's has demanded Answers to Interrogatories, and Cubicle has provided them. The parties have exchanged voluminous requests for production of documents, and Cubicle has already turned over more than 170,000 pages of responsive materials, with Rubik's' production to Cubicle due by August 24, 2018. And, the parties have exchanged numerous Rule 30 notices to take the testimony of party witnesses, several of whom reside outside this District.

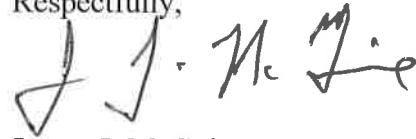
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In these circumstances, then, the parties suggest that the requested extension is reasonable and in the interests of justice and jointly ask that the Court grant the instant motion.

Respectfully,

A handwritten signature in black ink, appearing to read "J. J. McGuire". The signature is fluid and cursive, with the first "J" being particularly large and stylized.

James J. McGuire

cc: Maurice N. Ross, Esq. (by hand)  
Michael C. Ward, Esq. (by hand)  
Mark I. Peroff, Esq. (by email)  
Darren W. Saunders, Esq. (by email)  
Cassandra M. Tam, Esq. (by email)